

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)
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Implementation of Section 255 of the)
Telecommunications Act of 1996)
)
Access to Telecommunications Services,)
Telecommunications Equipment, and)
Customer Premises Equipment)
By Persons with Disabilities)

WT Docket No. 96-198

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Comments of Railfone-Amtrak Venture

Railfone-Amtrak Venture (the "Venture"), through GTE Railfone Incorporated ("Railfone"), submits the following comments to the Notice of Inquiry ("NOI"), FCC 96-382, released on September 19, 1996. The Commission has sought comments on a number of issues regarding the accessibility of telecommunications equipment and services to persons with disabilities.

The Venture consists of Railfone and The National Railroad Passenger Corporation ("Amtrak") and was formed to serve the untapped market of providing telecommunications to passengers aboard intercity rail cars. The Venture provides credit-card activated public telephone service through the use of telephones, telephone booths and related equipment installed on Amtrak-operated rail passenger cars. The Venture has been providing such service aboard Amtrak passenger cars since 1985.

In addition to the Justice Department regulation of which the Commission has taken notice, the physical accessibility of telecommunication equipment and services on intercity rail passenger cars is subject to the accessibility framework established for such cars by the ADA and DOT regulations implementing it. In Subpart II (Public Transportation by Intercity and Commuter Rail), 42 U.S.C. §§ 12161-12165, of Part B of Title II of the Americans With Disabilities Act, 42 U.S.C. §§ 12101 et seq., the Congress enacted a detailed and specific framework regarding the accessibility to and usability of intercity rail passenger cars (i.e. Amtrak cars) by individuals with

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disabilities. 42 U.S.C. § 12164 also directed the Secretary of Transportation to issue regulations to implement such framework, and those regulations are at 49 C.F.R. § 37.85-37.93 and § 38.111-38.127. Together, the foregoing provisions of statute and regulation establish a precise regulatory scheme regarding the physical accessibility of intercity rail passenger cars to individuals with disabilities.

That scheme has important implications for the accessibility of telecommunications equipment and services provided in intercity rail passenger cars. For example, the ADA does not require that all such cars be accessible to persons using wheelchairs. Rather, each train is required to carry a certain amount of wheelchair-accessible seating in total. Nor is wheelchair-accessibility required on the upper level of bi-level cars. Moreover, so long as the requirements for new cars and for train consists as a whole are met, older cars with no accessibility features may continue to run unaltered. As these examples reflect, the intercity rail car is a highly restricted and regulated environment which poses unique challenges with respect to providing accessible telecommunication equipment and services.

Although DOT regulations do not address accessibility to telecommunications equipment and service on intercity rail cars, such accessibility cannot sensibly be regulated independent of them. Accordingly, the Venture submits that the FCC and the Architectural and Transportation Barriers Compliance Board ("Access Board") should recognize that the matter of physical accessibility to telecommunications service and equipment on intercity rail passenger cars presents several unique issues which must be addressed within the ADA's and DOT's overall framework for physical accessibility of Amtrak's cars. The Venture further suggests that to the extent the Access Board's guidelines on accessibility of telecommunications equipment will apply to such equipment on intercity rail passenger cars, those guidelines should be implemented through the DOT as part of its regulations otherwise governing the physical accessibility of Amtrak's cars. Finally, The Venture recommends that the FCC defer to the DOT with respect to the establishment of any requirements regarding accessibility to telecommunications service (i.e. the Railfone service) on intercity rail passenger cars. Through the foregoing approach the FCC, Access Board, and DOT can ensure that with respect to any telecommunications service and equipment supplied on Amtrak's intercity rail passenger cars the requirements of section 255 are

implemented in a manner consistent with the existing ADA framework governing the physical accessibility of such cars generally.

The Venture does not believe that § 255 requires each piece of telecommunications equipment and each telecommunications service location or offering to be accessible to all persons with disabilities. The Venture believes that § 255's mandate can be met by providing accessibility and usability through alternative pieces of equipment and service offerings in numbers and locations which, taken together, meet the statute's mandate of equipment and services accessible to all. By avoiding unnecessary costs, and targeting accessibility features to where they are needed and can be used, the Venture believes this approach will increase overall levels of accessibility.

If full accessibility for all types of disabilities were required on each piece of telecommunications equipment and for each service offering, the total cost of providing such accessibility would make many features not "readily achievable." On the other hand, if full accessibility could be achieved by providing individual features on different pieces of equipment, in locations and amounts consistent with the need for such features, more such features would be "readily achievable." For example, text-telephone machines are too expensive to be considered universally "readily achievable." However, it might be "readily achievable" to install text telephones on a certain percentage of all new telephone installations. By allowing flexibility in the manner of achieving full accessibility, greater accessibility would result.

The need for such flexibility is particularly compelling in the context of intercity passenger rail cars. As noted in the Venture's comment to NOI paragraph 21, under the ADA and DOT implementing regulations, not all intercity passenger rail cars (or all parts of such cars) are required to be accessible to persons using wheelchairs, and under certain circumstances, older cars with no accessibility features whatsoever may continue to run unmodified. In this environment, it would be pointless and even counterproductive to require all Railfone equipment to be accessible to all persons with disabilities. The cost of doing so would divert scarce resources from better uses without increasing accessibility in fact. We recognize that these circumstances are unique. It is because of the unique constraints to which intercity rail passenger cars are subjected, both physical and regulatory, the Venture also recommends in its comment to NOI paragraph 21 that the FCC

defer to the DOT with respect to any requirements regarding accessibility to telecommunications service on intercity rail passenger cars.

Respectfully Submitted,

GTE Railfone Incorporated on behalf of
the Railfone-Amtrak Venture

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